

REMARKS

Claims 9, 11, 13-14, 16-17, 19-21, 23-24, 27-29, 31-34 and 36-39 are currently pending.

Claim Objection

Claims 11, 13-14, 16-17, 23, 27-28, 32-33 and 38-39 are objected to for depending from a rejected base claim. The Applicants acknowledge, with appreciation, the Office's indication that these claims would be allowable if re-written in independent form including all of the limitations of the base claim and any intervening claims. The accompanying terminal disclaimer addresses this objection.

Double Patenting

Claims 9, 15, 19-21, 24, 29, 31, 34, 36 and 37 stand rejected under the judicially created doctrine of obviousness-type double patenting as purportedly unpatentable over claims 1-19 of U.S. Patent No. 6,497,903. The Office acknowledges that the purportedly conflicting claims are not identical.

This rejection is obviated in light of the attached terminal disclaimer under 37 C.F.R. 1.321(c), filed herewith (*See* MPEP § 804.02). Accordingly, as U.S. Patent No. 6,497,903 may be removed as a reference in this rejection, the basis therefor is rendered moot.

Respectfully, the Applicants emphasize that the filing of the attached terminal disclaimer is not an admission of the propriety of the present rejection. *See Quad Technologies Corp. v. Union Sanitary District*, 20 USPQ2d 1392 (Fed. Cir. 1991) ("filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Id.* at 1394-95.).

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 313632000501. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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